

AO 241 (Rev. 09/17)

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court		District:
Name (under which you were convicted): <i>Michael Todd Wade</i>		Docket or Case No.: <i>28,865</i>
Place of Confinement: <i>Estelle Unit High Security</i>		Prisoner No.: <i>313763</i>
Petitioner (include the name under which you were convicted) <i>Michael Todd Wade</i>		Respondent (authorized person having custody of petitioner) <i>T.D.G.T. Bobby Lumpkin</i>
The Attorney General of the State of:		

United States Courts  
Southern District of Texas  
**FILED**

**PETITION**

**AUG 16 2021**

1. (a) Name and location of court that entered the judgment of conviction you are challenging:  

Nathan Ochsner, Clerk of Court

*264th Judicial District Court*  
*Bell County, TX*
- (b) Criminal docket or case number (if you know): *28,865*
2. (a) Date of the judgment of conviction (if you know): *1-19-79*
- (b) Date of sentencing: *12-18-80*
3. Length of sentence: *Life Sentence*
4. In this case, were you convicted on more than one count or of more than one crime? ☐ Yes ☒ No
5. Identify all crimes of which you were convicted and sentenced in this case: *murder*
6. (a) What was your plea? (Check one)
 

☒ (1) Not guilty  
☐ (2) Guilty

☐ (3) Nolo contendere (no contest)  
☐ (4) Insanity plea

AO 241 (Rev. 09/17)

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☒ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: Court of Appeals North Supreme Judicial District

(b) Docket or case number (if you know): 09-63-085-CR

(c) Result: Affirmed

(d) Date of result (if you know): 5-2-84

(e) Citation to the case (if you know): Limuel V. State 568 St. 2d 309

(f) Grounds raised: #1 trial Court Errored Reversibly in overruling the  
Defendants motion to Suppress The Picture Lineup of Michael Wade  
#2 The trial Court Errored Reversibly in Allowing Johnny Youngs  
in Court identification of Appellant or Appellants objections

\_\_\_\_\_

\_\_\_\_\_

(g) Did you seek further review by a higher state court? ☒ Yes ☐ No

If yes, answer the following:

(1) Name of court: tx Supreme Court

(2) Docket or case number (if you know): ?

(3) Result: Dismissed

\_\_\_\_\_

AO 241 (Rev. 09/17)

(4) Date of result (if you know): 99' or 00'(5) Citation to the case (if you know): ?(6) Grounds raised: Same as before(h) Did you file a petition for certiorari in the United States Supreme Court? ☐ Yes ☒ No

If yes, answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation to the case (if you know): \_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: Court of Criminal Appeals(2) Docket or case number (if you know): 28,865(3) Date of filing (if you know): 10-9-86(4) Nature of the proceeding: Reformed Sentence(5) Grounds raised: NO Affirmative Finding of a weapon

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☒ Yes ☐ No not present at hearing(7) Result: Charges Affirmative Finding Dropped

AO 241 (Rev. 09/17)

(8) Date of result (if you know):

10-9-86

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result:

(8) Date of result (if you know):

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

AO 241 (Rev. 09/17)

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☒ No(2) Second petition: ☐ Yes ☒ No(3) Third petition: ☐ Yes ☒ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**CAUTION:** To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Judicial Bias

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

See Paper Dated 10-7-86, it States Defendant Appeared in open Court, And That Said Defendant Said Nothing. Defendant was never at the Hearing, was Housed at Texas Department of Corrections unit. it Also Said He Had Counsel Present at Hearing, Defendant Has been Denied any Reply from Court as to Counsel's name, And will not Respond at All.

(b) If you did not exhaust your state remedies on Ground One, explain why:

Attorney was not at original trial This Happened Later

AO 241 (Rev. 09/17)

(c) **Direct Appeal of Ground One:**(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No(2) If you did not raise this issue in your direct appeal, explain why: it did not happen till  
After Appeal, nicheal was just discovered(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

AO 241 (Rev. 09/17)

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: \_\_\_\_\_

GROUND TWO:

INEFFECTIVE ASSISTANCE OF COUNSEL  
5 Counts

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

#1 At Hearing No Argument or objections to ineffective indictment #2 Counsel  
Failed to Raise a Defense #3 Counsel never Adequately Advised Defendant  
in NO Stages of Case #4 Counsel's Failure to Challenge The Appropriateness  
of Sentence #5 Counsel's Failure to Communicate a Favorable Plea Agreement.

(b) If you did not exhaust your state remedies on Ground Two, explain why:

I did NO Action  
in NO Court Process

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

unknown

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

?

Docket or case number (if you know): \_\_\_\_\_

?

AO 241 (Rev. 09/17)

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: Can't Remember ALL

**GROUND THREE:**

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):



AO 241 (Rev. 09/17)

(b) If you did not exhaust your state remedies on Ground Three, explain why: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**(c) Direct Appeal of Ground Three:**(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**(d) Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_  
\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AO 241 (Rev. 09/17)

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

---



---



---

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

---



---

**GROUND FOUR:**

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

---



---



---



---



---



---



---



---

- (b) If you did not exhaust your state remedies on Ground Four, explain why:

---



---



---

- (c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

---



---

- (d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

---

AO 241 (Rev. 09/17)

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_

AO 241 (Rev. 09/17)

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

---



---



---

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

---



---



---

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

---



---



---



---



---



---



---

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

---



---



---



---



---

AO 241 (Rev. 09/17)

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: unknown

(b) At arraignment and plea: ?

(c) At trial: ?

(d) At sentencing: ?

(e) On appeal: ?

(f) In any post-conviction proceeding: ?

(g) On appeal from any ruling against you in a post-conviction proceeding: ?

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☒ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*

I AM FILING under Judicial BART which is not Barred  
by AEDPA

[illegible]

---

- Page 15 of 16

AO 241 (Rev. 09/17)

- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: to Have Court Reduce Charge to Manslaughter and Have Penalty Reduced to 20yrs / time Served

or any other relief to which petitioner may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on \_\_\_\_\_ (month, date, year).

Executed (signed) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TABLE of Authorities usedCases Cited

<u>Hughes v. Ryan</u> 650 F.3d 1301 (9th Cir. 2011)	....	<u>Judicial Bias</u>
<u>Johnson v. M'Intosh</u> 403 U.S. 212 (1971)	....	<u>Judicial Bias</u>
<u>Garrett v. State</u> 602 N.E.2d 139 (1992)	....	<u>Failure to object</u>
<u>United States v. Broce</u> 488 U.S. 563 (1989)	....	<u>Raise A Defense</u>
<u>Florida v. Nixon</u> 543 U.S. 175 (2004)	....	<u>Raise A Defense</u>
<u>Roe v. Flores-Ortega</u> 528 U.S. 470 (2000)	....	<u>Failure to Advise</u>
<u>Yates v. Hultman</u> 2011 U.S. Dist. Lexis 48195	....	<u>Failure to Advise</u>
<u>Evans v. Meyer</u> 742 F.2d 371 (1984)	....	<u>Failure to Advise</u>
<u>Laffer v. Cooper</u> 132 S.Ct. 1376 (2012)	....	<u>Appropriate Challenge of Sentence</u>
<u>Williams v. Taylor</u> 529 U.S. 362 (2000)	....	<u>Challenge of Sentence</u>
<u>Glover v. US</u> 531 U.S. 198 (2001)	....	<u>Challenge of Sentence</u>
<u>Missouri v. Frye</u> 132 S.Ct. 1399 (2012)	....	<u>No Favorable Plea Agreement</u>
<u>Laffer v. Cooper</u> 132 S.Ct. 1376 (2012)	....	<u>No Favorable Plea Agreement</u>

Constitutional ProvisionsU.S. Constitution 6th and 14 Amendments:U.S. Constitution 5th AmendmentRulesRule 4. Preliminary ReviewRule 8. Evidentiary Hearings (A)(3)(C)Rule 1. Scope (1)(2)



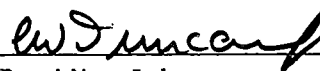
NO 28,865

THE STATE OF TEXAS	X	IN THE <u>27</u> DISTRICT
VS	X	COURT OF
<u>MICHAEL TODD WADE</u>	X	BELL COUNTY, TEXAS

REFORMED SENTENCE PER COURT OF CRIMINAL APPEALS

On this the 9 day of OCTOBER, 19 86 this cause being again called, the State appeared by her District Attorney and the Defendant appeared in open Court in person and with his counsel present for the purpose of having the sentence of law pronounced in accordance with the Judgment herein rendered and entered against him. And thereupon the Defendant was asked by the Court whether he had anything to say why said sentence should not be pronounced against him and he answered nothing in bar thereof. Whereupon the Court proceeded, in the presence of the said Defendant, to pronounce sentence against him as follows:

It is the ORDER of this Court that the Defendant who has been adjudged to be guilty of MURDER, AS CHARGED BY INDICTMENT and whose punishment has been assessed at confinement in the Texas Department of Corrections for NOT LESS THAN FIVE (5) YEARS NOR MORE THAN LIFE ~~A TERM OF/ years~~, be delivered by the Sheriff of Bell County, Texas, to the Department of Corrections of the State of Texas or other persons legally authorized to receive such convicts, and the said Defendant shall be confined in the said Department of Corrections for NOT LESS THAN 5 YEARS NOR MORE THAN LIFE ~~years~~ in accordance with the provisions of the law governing the Department of Corrections of said State. It is further ORDER of this Court that the Defendant shall be given NO days credit towards the completion of this sentence, which is the time the Defendant served in jail waiting trial in this cause up to and including the day of this sentence. Defendant committed said offense on the 19 day of JANUARY, 19 79.

  
Presiding Judge

SIGNED AND ENTERED THIS      DAY OF OCTOBER, 1986.

601833

Relief Requested

For The Foregoing Reasons Stated Above in This Petition, Petitioner Respectfully Requests This Court to Hear His Case in a Jury trial, or for Court to Vacate His Conviction and order a new trial; And/or Any other Just Relief.

Wherefore, Petitioner, Prays That The Court will grant His Petition, And order a new Sentencing Hearing or Newtrial According to The Rules of State, Federal, and U.S. Constitutional Laws of The United States of America. I Pray For All other Just, Proper And Appropriate Relief.

Respectfully Submitted This 6 day of August, 2021

Michael Todd Wade 313763  
Petitioner Pro Se

Michael Todd Wade 313763

Estelle Unit High Security Bldg

264 P.M. 3478

Huntsville, TX 77320

I, believe I am entitled Relief and I bring This Petition in good Faith.

I Affirm under The Penalties For Perjury That The Foregoing statements are true and correct to my knowledge and beliefs.

Michael Todd Wade 313763  
Petitioner Pro-Se

Michael Todd Wade

Petitioner Michael Wade Has Raised a number of Claims That Have a Significant merit, That entitles Him to Habeas Corpus Relief For Ineffective Assistance of Counsel, under Strickland v. Washington 466 US 699 (1984) And Amendments of the U.S. Constitution 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendments

Respectfully Submitted This 6 day of August, 2021

Michael Todd Wade 313763  
Petitioner Pro-Se

Michael Todd Wade 313763

Estelle most High Security Bldg

264 F.M. 3478

Huntsville, tx 77320

Michael Todd Wade #313763

Estelle with H.S. Bldg

264 F.M. 3478

Huntsville, TX 77320

United States Courts  
Southern District of Texas  
FILED

AUG 16 2021

Nathan Ochener, Clerk of Court

CL  
U.S. D.  
P.O. Box  
Houston,